

14.

Atty. Dkt. No. 072827-0372

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alan L. Mueller, et al.

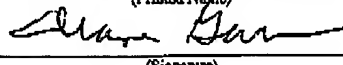
Title: Compounds Active at a Novel Site
on Receptor-Operated Calcium
Channels Useful for Treatment of
Neurological Disorders and
Diseases

Appl. No.: 10/797,355

Filing Date: March 9, 2004

Examiner: A. Pryor

Art Unit: 1616

CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.
DIANE GARCIA (Printed Name)
 (Signature)
July 26, 2005 (Date of Deposit)

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your Petitioner, NPS Pharmaceuticals, Inc., having its principal place of business at 383 Colorow Drive Way, Salt Lake City, Utah 84108, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/797,355, filed 2/23/2004, which is a continuation of co-pending U.S. Application No. 09/825,373 filed on April 2, 2001; which is a continuation of U.S. Application No. 09/186,341 filed November 4, 1998, now U.S. Patent No. 6,211,245; which is a continuation of U.S. Application No. 08/873,011, filed June 11, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/869,154, filed June 4, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/763,480, filed December 11, 1996, now U.S. Patent No. 6,017,965; which is a continuation-in-part of U.S. Application Ser. No. 08/663,013, filed June 7, 1996, now abandoned; which is a continuation-in-part of U.S. Application Ser. No. 08/485,038, filed June 7,

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1995, now U.S. Patent No. 6,071,970; which is a continuation-in-part and a National Stage application of International Patent Application No. PCT/US94/12293 (WO 95/21612), filed October 26, 1994 and designating the United States; which is a continuation-in-part of U.S. Application Serial No. 08/288,668, filed August 9, 1994, now abandoned; which is a continuation-in-part of U.S. Application Ser. No. 08/194,210, filed February 8, 1994, now abandoned, all by virtue of an Assignment recorded on July 22, 1993 on Reel/Frame 6697/0470 with the United States Patent and Trademark Office Assignment Division, a copy of which is attached hereto as APPENDIX A; and which is a continuation-in-part of U.S. Serial No. 08/014,813, filed February 8, 1993, now abandoned, by virtue of an assignment recorded on June 17, 1994 on Reel/Frame 7007/0967, with the United States Patent and Trademark Office Assignment Division, a copy of which is also attached hereto as APPENDIX A.

Further, your Petitioner represents that it is the owner of U.S. Patent No. 6,211,245, which issued on April 3, 2001, U.S. Patent Application No. 09/186,341, filed November 4, 1998, which is a continuation of U.S. Application No. 08/873,011, filed June 11, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/869,154, filed June 4, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/763,480, filed December 11, 1996, now U.S. Patent No. 6,017,965; which is a continuation-in-part of U.S. Application Ser. No. 08/663,013, filed June 7, 1996, now abandoned; which is a continuation-in-part of U.S. Application Ser. No. 08/485,038, filed June 7, 1995, now U.S. Patent No. 6,071,970; which is a continuation-in-part and a National Stage application of International Patent Application No. PCT/US94/12293 (WO 95/21612), filed October 26, 1994 and designating the United States; which is a continuation-in-part of U.S. Application Serial No. 08/288,668, filed August 9, 1994, now abandoned, all by virtue of an Assignment recorded on July 22, 1993 on Reel/Frame 6697/0470 with the United States Patent and Trademark Office Assignment Division, a copy of which is attached hereto as APPENDIX A; and which is a continuation-in-part of U.S. Serial No. 08/014,813, filed February 8, 1993, now abandoned, by virtue of an assignment recorded on June 17, 1994 on Reel/Frame 7007/0967, with the United

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States Patent and Trademark Office Assignment Division, a copy of which is also attached hereto as APPENDIX A.

Your Petitioner, NPS Pharmaceuticals, Inc., hereby disclaims the terminal part of the term of any patent granted on the above identified patent application which would extend beyond the full statutory term, as presently shortened by any terminal disclaimer, of U.S. Patent 6,211,245, and hereby agrees that any patent so granted on the above identified patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 6,211,245 shall be the same as the legal title to any patent granted on the above identified patent application, this agreement to run with any patent granted on the above identified patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent 6,211,245 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 6,211,245 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 6,211,245 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above identified patent application that would extend beyond the present termination of U.S. Patent 6,211,245, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

Atty. Dkt. No. 072827-0372

The undersigned, being the Attorney of Record for the above identified patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached at APPENDIX A, and to the best of his knowledge and belief, legal title to the above identified patent application and U.S. Patent 6,211,245 rests with Petitioners, NPS Pharmaceuticals, Inc.. The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing there from.

Respectfully submitted,

Date

July 26, 2005

FOLEY & LARDNER LLP

Customer No. 33588

Telephone: 858-847-6700

Facsimile: 858-792-6773

By

Barry S. Wilson

Barry S. Wilson

Attorney for Applicant

Registration No. 39,431



US006211245B1

(12) **United States Patent**
Mueller et al.

(10) Patent No.: **US 6,211,245 B1**
(45) Date of Patent: **Apr. 3, 2001**

- (54) **COMPOUNDS ACTIVE AT A NOVEL SITE ON RECEPTOR-OPERATED CALCIUM CHANNELS USEFUL FOR TREATMENT OF NEUROLOGICAL DISORDERS AND DISEASES**
- (75) Inventors: **Alan L. Mueller; Scott T. Moe**, both of Salt Lake City, UT (US)
- (73) Assignee: **NPS Pharmaceuticals, Inc.**, Salt Lake City, UT (US)
- (*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/186,341**

(22) Filed: **Nov. 4, 1998**

Related U.S. Application Data

- (63) Continuation of application No. 08/873,011, filed on Jun. 11, 1997, which is a continuation-in-part of application No. 08/869,154, filed on Jun. 4, 1997, now abandoned, which is a continuation-in-part of application No. 08/763,480, filed on Dec. 11, 1996, now Pat. No. 6,017,965, which is a continuation-in-part of application No. 08/663,013, filed on Jun. 7, 1996, now abandoned, which is a continuation-in-part of application No. 08/483,038, filed on Jun. 7, 1995, which is a continuation-in-part of application No. PCT/US94/12293, filed on Oct. 26, 1994, which is a continuation-in-part of application No. 08/288,668, filed on Aug. 9, 1994, now abandoned, which is a continuation-in-part of application No. 08/194,210, filed on Feb. 8, 1994, now abandoned, which is a continuation-in-part of application No. 08/014,813, filed on Feb. 8, 1993, now abandoned.

- (51) Int. Cl.⁷ **A61K 31/135; C07C 211/03**
- (52) U.S. Cl. **514/653; 514/654; 564/355; 564/360; 564/361; 564/363; 564/379**
- (58) Field of Search **564/355, 360, 564/361, 363, 379; 514/653, 654**

(56) **References Cited**

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6,017,965	1/2000	Mueller et al.	514/649

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(List continued on next page.)

Primary Examiner—Richard L. Raymond

(57) **ABSTRACT**

Method and compositions for treating a patient having a neurological disease or disorder, such as stroke, head trauma, spinal cord injury, spinal cord ischemia, ischemia or hypoxia-induced nerve cell damage, epilepsy, anxiety, neuropsychiatric or cognitive deficits due to ischemia or hypoxia such as those that frequently occur as a consequence of cardiac surgery under cardiopulmonary bypass, or neurodegenerative diseases such as Alzheimer's Disease, Huntington's Disease, Parkinson's Disease, or amyotrophic lateral sclerosis (ALS).

45 Claims, No Drawings

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NO. 1757 P. 20
17.

APPENDIX A

XXXXXXX.XA



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LOS ANGELES, CA 90017

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ASSIGNOR: VANWAGENEN, BRADFORD C. DOC DATE: 04/27/94

ASSIGNOR: DELMAR, ERIC G. DOC DATE: 04/27/94

ASSIGNOR: BALANDRIN, MANUEL F. DOC DATE: 04/15/94

ASSIGNOR: MOE, SCOTT T. DOC DATE: 04/15/94

ASSIGNOR: ARTMAN, LINDA D. DOC DATE: 04/27/94

RECORDATION DATE: 06/17/94 NUMBER OF PAGES 005 REEL/FRAME 7007/0967

DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

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SALT LAKE CITY, UT 84108

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21. NO. 1757 P. 22

7007/0967 PAGE 0002

SERIAL NUMBER 8-194210
PATENT NUMBER

FILING DATE 02/08/94
ISSUE DATE 00/00/00

margaret LaSalle

EXAMINER/PARALEGAL
ASSIGNMENT BRANCH
ASSIGNMENT/CERTIFICATION SERVICES DIVISION

ASSIGNMENT

For valuable consideration, we, Alan L. Mueller of Salt Lake City, Utah;
Bradford C. VanWagenen of Salt Lake City, Utah; Eric G. Delmar of Salt Lake City, Utah;
Mamuel F. Balandrin of Sandy, Utah; Scott T. Moa of Salt Lake City, Utah; and Linda D.
Artman of Salt Lake City, Utah, hereby assign to NPS PHARMACEUTICALS, INC., a
Delaware corporation having a place of business at Salt Lake City, Utah, and its successors
and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest
throughout the world in the inventions and improvements which are the subject of an
application for United States Patent, Serial No. 08/194,210, filed on February 8, 1994
entitled COMPOUNDS ACTIVE AT A NOVEL SITE ON RECEPTOR OPERATED
CALCIUM CHANNELS USEFUL FOR TREATMENT OF NEUROLOGICAL
DISORDERS AND DISEASES, this assignment including said application, and any and all
United States and foreign patents granted for any of said inventions or improvements, and
the right to claim priority based on the filing date of said application under the International
Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the
European Patent Convention, and all other treaties of like purposes; and we authorize the
Assignee to apply in all countries in our names or in its own name for patents and like rights
of exclusion and for inventor's certificates for said inventions and improvements; and we
agree for ourselves and our respective heirs, legal representatives and assigns, without further
compensation to perform such lawful acts and to sign such further applications, assignments,
Preliminary Statements and other lawful documents as the Assignee may reasonably request
to effectuate fully this assignment.

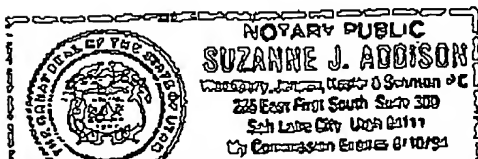
IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
19th day of April, 1994.

Alan L. Mueller I.S.
 FIRST MIDDLE LAST

State of Utah :
 SS.

County of Salt Lake :

Before me this 19th day of April, 1994, personally appeared
Alan L. Mueller known to me to be the person whose name is subscribed
to the foregoing Assignment and acknowledged that he executed the same as his free act and
deed for the purposes therein contained.



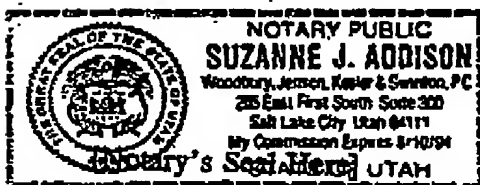
Suzanne J. Addison
 Notary Public

IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
27th day of April, 1994.

Bradford C. Van Wagener L.S.
 FIRST MIDDLE LAST

State of Utah :
 County of Salt Lake :
 SS.

Before me this 27th day of April, 1994, personally appeared
Bradford C. Van Wagener known to me to be the person whose name is subscribed
 to the foregoing Assignment and acknowledged that he executed the same as his free act and
 deed for the purposes therein contained.



Suzanne J. Addison
 Notary Public

My commission expires:

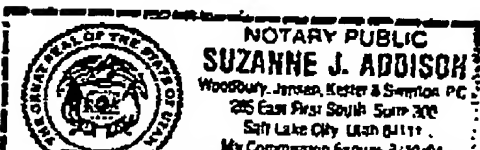
8/21/94

IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
22nd day of April, 1994.

Eric B. DelMar L.S.
 FIRST MIDDLE LAST

State of Utah :
 County of Salt Lake :
 SS.

Before me this 27th day of April, 1994, personally appeared
Eric B. DelMar known to me to be the person whose name is subscribed
 to the foregoing Assignment and acknowledged that he executed the same as his free act and
 deed for the purposes therein contained.



Suzanne J. Addison
 Notary Public

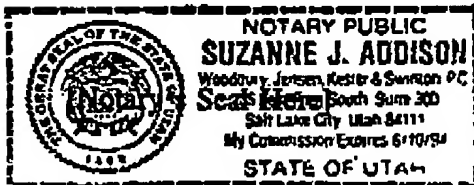
IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
15th day of April, 1994.

Manuel F. Balandrin L.S.
 FIRST MIDDLE LAST

State of Utah :
 SS.
 County of Salt Lake :

Before me this 15th day of April, 1994, personally appeared
Manuel F. Balandrin known to me to be the person whose name is subscribed
 to the foregoing Assignment and acknowledged that he executed the same as his free act and
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Suzanne J. Addison
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My commission expires:
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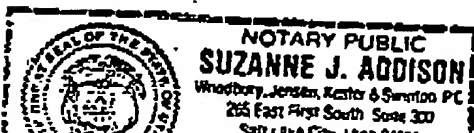
IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
15th day of April, 1994.

Scott T. Moe L.S.
 FIRST MIDDLE LAST

State of Utah :
 SS.
 County of Salt Lake :

Before me this 15th day of April, 1994, personally appeared
Scott T. Moe known to me to be the person whose name is subscribed
 to the foregoing Assignment and acknowledged that he executed the same as his free act and
 deed for the purposes therein contained.

Suzanne J. Addison
 Notary Public



IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
27th day of April, 1994.

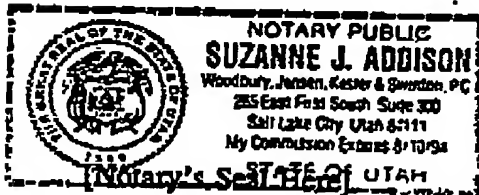
Linda D. Artman L.S.
 FIRST MIDDLE LAST

State of Utah

County of Salt Lake

SS.

Before me this 27th day of April, 1994, personally appeared
Linda D. Artman known to me to be the person whose name is subscribed
 to the foregoing Assignment and acknowledged that he executed the same as his free act and
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Suzanne J. Addison
 Notary Public

My commission expires:

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DOC DATE: 04/15/94

ASSIGNOR:
VANWAGENEN, BRADFORD C.

DOC DATE: 04/27/94

ASSIGNOR:
DELMAR, ERIC G.

DOC DATE: 04/27/94

ASSIGNOR:
BALANDRIN, MANUEL F.

DOC DATE: 04/15/94

ASSIGNOR:
MOE, SCOTT T.

DOC DATE: 04/15/94

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Connie J. Heer

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MUELLER, ALAN L.

DOC DATE: 05/18/93

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NPS PHARMACEUTICALS, INC.
420 CHIPETA WAY SALT LAKE CITY, UT 84108

SERIAL NUMBER 8-014813
PATENT NUMBER

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Margaret J. Aballe

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ASSIGNOR: .
· MUELLER, ALAN L.

DOC DATE: 05/18/93

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DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:
NPS PHARMACEUTICALS, INC.
420 CHIPETA WAY SALT LAKE CITY, UT 84108

SERIAL NUMBER	8-014813	FILING DATE	02/08/93
PATENT NUMBER		ISSUE DATE	00/00/00

P. Foster
EXAMINER/PARALEGAL
ASSIGNMENT BRANCH
ASSIGNMENT/CERTIFICATION SERVICES DIVISION

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Alan L. Mueller

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2. Nature of conveyance:

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Execution Date: May 18, 1993

3. Name and address of receiving party(ies):

Name: NPS PHARMACEUTICALS, INC.

Internal Address:

Street Address: 420 Chipeta Way
Salt Lake City, UT 84108

City: Salt Lake City State: UT ZIP: 84108

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s): 08/014,813, filed February 8, 1993

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No(s).

B. Patent No(s).

Additional numbers attached? ☐ Yes ☒ No

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5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Richard J. Warburg, Esq.

Internal Address: SAN DIEGO OFFICE

Street Address: 611 West Sixth Street

City: Los Angeles State: CA ZIP: 90017

6. Total number of applications and patents involved: 1

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32.

m/ra

ASSIGNMENT

For valuable consideration, I, Alan L. Mueller,
of Salt Lake City, Utah,
CITY OR TOWN STATE hereby assign
to NPS PHARMACEUTICALS, INC., a
Delaware corporation having a place of business
at Salt Lake City, Utah
and its successors and assigns (collectively hereinafter called "the Assignee"), the
entire right, title and interest throughout the world in the inventions and improve-
ments which are the subject of an application for United States Patent Serial No. 08/014,813
filed February 8, 1993 entitled COMPOUNDS ACTIVE AT A NOVEL SITE ON
THE NMDA RECEPTOR-IONOPHORE COMPLEX USEFUL FOR TREATMENT OF
NEUROLOGICAL DISORDERS

this assignment including said application, any and all United States and foreign
patents granted for any of said inventions or improvements, and the right to claim
priority based on the filing date of said application under the International Convention
for the Protection of Industrial Property, the Patent Cooperation Treaty, the European
Patent Convention, and all other treaties of like purposes; and I authorize the Assignee
to apply in all countries in my name or in its own name for patents and like rights of
exclusion and for inventor's certificates for said inventions and improvements; and I
agree for myself and my heirs, legal representatives and assigns, without further
compensation to perform such lawful acts and to sign such further applications,
assignments, Preliminary Statements and other lawful documents as the Assignee
may reasonably request to effectuate fully this assignment.

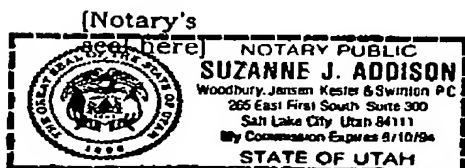
IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City,
Utah, this 18th day of May, 19 93

Alan L. Mueller L.S.
STATE OF Utah FIRST Alan MIDDLE INITIAL L. LAST Mueller
COUNTY OF Salt Lake SS.

Before me this 18th day of May, 19 93, personally
appeared Alan L. Mueller known to me to be
the person whose name is subscribed to the foregoing Assignment and acknowledged
that he executed the same as his free act and deed for the purposes therein contained.

Suzanne J. Addison
Notary Public

My commission expires: 8-10-94



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